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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,542	02/15/2002	Bernard A. McDonald	21-0655	1679
40158	7590	03/11/2004	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			COLE, LAURA C	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/076,542

Applicant(s)

MCDONALD, BERNARD

Examiner

Laura C Cole

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2152002.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Double Patenting*

1. Applicant is advised that should claims 1-5 be found allowable, claim 6 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Stoner, USPN 2,450,172.

Stoner discloses the claimed invention including a frame assembly (Figure 4) for being coupled to a vacuum (Figure 1), the frame having a base member (28), a stanchion member (26), and an arm member (36), the arm member adaptable for coupling to a hose of the shop vacuum (by hook members on rear, shown in Figures 1 and 4), and a plurality of clip members coupled to the arm (again, hook members on rear of (36) as shown in Figure 4), the hook members receiving the hose (Figure 1).

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The base member is capable of being adapted for coupling to the vacuum (Figure 1), the stanchion capable of being coupled to the base member.

3. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sheker, USPN 2,506,897.

Sheker discloses the claimed invention including a frame assembly (Figures 1 and 2) for being coupled to a vacuum (27), the frame having a base member (24, 25), a stanchion member (10), and an arm member (28), the arm member adaptable for coupling to a hose (H) of the shop vacuum (by hook members 31, 32), and a plurality of clip members coupled to the arm (again, hook members 31, 32), the hook members receiving the hose (Figures 1 and 2). The base member is capable of being adapted for coupling to the vacuum, the stanchion capable of being coupled to the base member.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Epstein, USPN 4,426,857.

Epstein discloses the claimed invention including a frame assembly (see Figure 3) for being coupled to a device (10), the frame having a base member (62), a stanchion member (50), and an arm member (76), the arm member adaptable for coupling to a hose of the shop vacuum (by nozzle (70)). The base member is capable of being adapted for coupling to the vacuum, the stanchion capable of being coupled to the base member.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Koshiyama, USPN 3,509,590.

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Koshiyama discloses the claimed invention including a frame assembly (best shown in Figure 2) for being coupled to a vacuum (1), the frame having a base member (21), a stanchion member (20), and an arm member (23), the arm member adaptable for coupling to a hose of the shop vacuum (by hook member (28)). The base member is capable of being adapted for coupling to the vacuum (Figures), the stanchion capable of being coupled to the base member.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Mills, USPN 505,060.

Mills discloses the claimed invention including a frame assembly (Figure 1) capable for being coupled, the frame having a base member (not labeled, shown in Figure 1), a stanchion member (a'), and an arm member (b), the arm member capable of coupling to a hose. The base member is capable of being adapted for coupling, the stanchion capable of being coupled to the base member. The frame has a coupling member (c, c', d) extending through the stanchion member (Figure 2), the coupling member pivotally coupling the arm member to the stanchion member (Page 1 Lines 10-14, 33-36) and the stanchion member having a stanchion slot (shown in Figure 1) of which the coupling member extends through (Figure 2).

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Salisbury, USPN 2,453,863.

Salisbury discloses the claimed invention including a frame assembly (Figure 1) capable for being coupled, the frame having a base member (15, 16), a stanchion member (11), and an arm member (7), the arm member capable of coupling to a hose.

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The base member is capable of being adapted for coupling, the stanchion capable of being coupled to the base member. The frame has a coupling member (12, 13) extending through the stanchion member (Figure 1), the coupling member pivotally coupling the arm member to the stanchion member (Column 1 Lines 45-52), the stanchion member having a stanchion slot (unlabeled, where (12, 13) pass through) of which the coupling member extends through (Figure 1), the arm member having an arm slot (8), the coupling member extending through the stanchion member.

***Allowable Subject Matter***

8. Claim 6 is allowed.

9. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art made of record includes the combination of providing a device that has a frame comprising a base, a stanchion member having a stanchion slot pivotally coupled to a arm member having an arm slot, the coupling member extending through the stanchion member within the stanchion slot and arm slot, and having a plurality of clip members capable for receiving a hose of a shop vacuum.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN 6,588,052 includes a base, stanchion, arm, and hooks, however the filing date of this patent is after the Applicant's filing date.

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USPN 3,709,585 includes a device having a similar coupling structure to the Applicant's, having a stanchion and arm with a coupling device going between their respective slots.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Mondays through Thursdays, and alternating Fridays, from 7:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden, can be reached at (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*LCC*  
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19 February 2004

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